

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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United States of America,

Case No. 21-cr-250 (JRT/TNL)

Plaintiff,

v.

**ORDER**

Jing Chen (1),

Defendant.

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This matter comes before the Court on Defendant Jing Chen's Request for Witness to Appear Remotely for Motion Hearing. ECF No. 135.

A status conference with counsel was held on August 17, 2022. ECF No. 126. Laura Provinzino appeared on behalf of the Government. Lauren Campoli appeared on behalf of Defendant. As a result of the status conference, the Court set an in-person hearing on Defendant's Motion to Dismiss for Pre-Indictment Delay, ECF No. 24, and Amended Motion to Dismiss for Pre-Indictment Delay, ECF No. 80, for September 19, 2022, at 10:00 a.m. ECF No. 127. The Court ordered the Government to respond to Defendant's Pre-Indictment Delay Motions on or before September 6, 2022, and ordered Defendant to file an Amended Notice of Intent to Call Witnesses solely as to her Pre-Indictment Delay Motions on the same date. *Id.* at 4.

On September 6, 2022, the Government filed a Motion for Extension of Time to File Response to Defendant's motions. ECF No. 128. The Court granted in part and denied in part the motion, and extended the deadlines for the Government to respond to

Defendant's motions and for Defendant to file her amended notice of intent to call witnesses to September 9, 2022. ECF No. 130 at 2-3.

On September 9, 2022, the Government filed its response and Defendant filed her amended witness list. ECF Nos. 133, 134. Defendant's Amended Notice of Intent to Call Witnesses stated that Defendant "respectfully requests that witness Waylee Filley be permitted to appear via video." ECF No. 133 at 2.

On September 14, 2022, the Court emailed counsel for the Government and Defendant and asked whether the Government had any objection to Defendant's request for Ms. Filley to appear via video. The Government responded that its "position is that [Defendant's] witness should appear in-person for the hearing."

Also on September 14, 2022, Defendant filed a Request for Witness to Appear Remotely for Motion Hearing. ECF No. 135. Defendant requests that Ms. Filley, an investigator from San Francisco, California, be permitted to testify by Zoom "[g]iven that Zoom hearings are authorized for health and safety reasons, as well as time and efficiency reasons." *Id.* at 2. As grounds for her request, Defendant argues that "Ms. Filley and, in turn, [Defendant], would need to spend considerable money and time to appear in person at this hearing." *Id.* Additionally, Defendant notes that "[t]here is an increased risk of COVID infection for those traveling through busy airports." *Id.*

Having considered the arguments of the parties, the Court denies Defendant's request for Ms. Willey to appear remotely for the September 19 motions hearing. First, while Defendant noted in her September 9 Amended Notice of Intent to Call Witnesses that Defendant "respectfully requests that witness Waylee Filley be permitted to appear via

video,” Defendant waited to file the specific request outlining her reasons for Ms. Filley to appear via video until September 14, just five days before the scheduled hearing. Further, in her request, Defendant states that she “would need to spend considerable money and time [for Ms. Filley] to appear in person,” but does not explain specifically how it would cause her undue burden or expense. It is typical for witnesses to travel to this District to testify for motions hearings, and Defendant has been aware that Ms. Filley would need to testify at an in-person motions hearing since August 23 when the Court’s Order was issued. The fact that a Zoom hearing would be easier for Ms. Filley for “time and efficiency reasons” and would cost less money for Defendant does not persuade the Court that requiring Ms. Filley to appear in person would cause undue burden or expense. Moreover, while the Court notes that there may be “an increased risk of COVID infection for those traveling through busy airports,” again, Defendant does not explain how this would cause Ms. Filley, specifically, any undue burden. Additionally, Ms. Filley is Defendant’s witness, and the hearing is on Defendant’s motions, not the Government’s. Therefore, the Court denies Defendant’s request for Ms. Filley to appear remotely for the September 19 motions hearing.

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant Jing Chen’s Request for Witness to Appear Remotely for Motion Hearing, ECF No. 135, is **DENIED**.
2. Any witness testifying at the September 19, 2022, hearing on Defendant’s Motion to Dismiss for Pre-Indictment Delay, ECF No. 24, and Amended Motion to

Dismiss for Pre-Indictment Delay, ECF No. 80, shall appear in person in Courtroom 9W,  
Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

Dated: September 15, 2022

s/ Tony N. Leung  
TONY N. LEUNG  
United States Magistrate Judge  
District of Minnesota

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